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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,900	04/12/2004	Marc Ramet	237990US26	2487
22850	7590	10/04/2007		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LE, HUYEN D	
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 10/04/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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88

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/821,900	RAMET, MARC	
	<b>Examiner</b>	<b>Art Unit</b>	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-21, 23-43, 45-56, 58, 59, 62-66, 68, 71-75 and 77-86 is/are pending in the application.
- 4a) Of the above claim(s) 9, 32 and 50-54 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17, 19, 20, 33-43, 47-49, 58, 74, 75 and 77-83 is/are allowed.
- 6) ☒ Claim(s) 1-5, 21, 24-28, 45, 46, 57 and 84-86 is/are rejected.
- 7) ☒ Claim(s) 7, 23, 29-31, 59, 62-66 and 71-73 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 21, 24-28, 45, 46, 57, 84-86 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald (1,417,848).

The MacDonald reference discloses a device for applying a product to a surface comprising: a grasping element 7; two arms 16 mounted on the grasping element via a junction; and an applicator (floss) which is coupled to both of the two arms 16 and which extends between the two arms 16; a reservoir 6 containing a dental product 20; the two arms 16 are at least partially elastically deformable and wherein the reservoir is at least partially concealed in a cavity within the device.

Regarding claim 2, the applicator 4 is at least partially elastically deformable.

Regarding claim 3, at least one of the two arms is at least partially elastically deformable.

Regarding claim 4, the grasping element 7 is elastically deformable in proximity to the junction.

Regarding claim 5, each of the two arms 16 has a free end, and the two arms 16 form an arc and support the applicator (floss) between the two free ends.

Regarding claims 21, 24, the grasping element 7 connects to the reservoir 6 in a position preventing the applicator (by head 19 of spindle 9) from being charged (with powder, see col. 3, lines 48-59) when the applicator is applied against the surface.

Regarding claim 45, the grasping element 7 serves as a closure capsule for the reservoir.

Regarding claim 46, the grasping element 7 facilitates attachment (at 8) to the reservoir 6.

Regarding claims 84 and 85, the reservoir 6 is detachably coupled to the grasping element 7.

#### ***Allowable Subject Matter***

3. Claims 10-17, 19-20, 33-43, 47-49, 58, 74, 75, 77-83 are allowed.
4. Claims 7, 23, 29-31, 59, 62-66 and 71-73 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

5. Applicant's arguments filed 07/18/2007 have been fully considered but they are not persuasive.

Regarding applicant's arguments that claim 32 is clearly readable on the elected species, Fig. 4, examiner disagrees with applicant. Claim 32 is not readable due to the fact that the arms are held by a resilient mechanism. Fig. 1 shows a resilient mechanism 7. The elected species, Fig. 5, does not show a resilient mechanism 7.

Thus, claim 32 has been withdrawn from consideration as previously mentioned in the last Office Action.

Regarding applicant's arguments that MacDonald does not disclose a reservoir being at least partially concealed within a device and containing a make-up product, examiner disagrees with applicant. MacDonald discloses a reservoir 6 containing a dental product. The dental product can be considered as a "make-up" product because it will beautify a person's teeth.

Regarding applicant's arguments with respect to claim 24 that the arms in MacDonald are not movable relative to the reservoir in order to apply the product, examiner's disagrees with applicant. The arms 16 in MacDonald are threadedly connected to the reservoir 6. Thus, the arms are movable relative to the reservoir.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3751


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890.

The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Huyen Le  
Primary Examiner  
Art Unit 3751

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